

NEBRASKA DEPARTMENT OF EDUCATION

RULE 19

REGULATIONS REGARDING SCHOOL ENROLLMENT

TITLE 92, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 19

EFFECTIVE DATE
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State of Nebraska
Department of Education
301 Centennial Mall So.
Lincoln, Nebraska 68509



**TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 19 - SCHOOL ENROLLMENT**

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001 General Information

001.01 Purpose of this Chapter. Article VII, Section 1 of the Constitution of the State of Nebraska states that: “The Legislature shall provide for the free instruction in the common schools of this state for all persons between the ages of five and twenty-one years.” This Chapter is adopted under the constitutional and statutory authority of the State Department of Education, for the purpose of clarifying responsibilities of public school districts regarding school enrollment so that all persons who are constitutionally entitled to a free public education in Nebraska receive such an education upon request.

001.02 Scope and Application of this Chapter. This Chapter requires each public school district, as a condition of continued accreditation under Title 92, Nebraska Administrative Code, Chapter 10 (92 NAC 10), to enroll and serve persons, upon request, who are entitled to a free public education in that district. This Chapter also contains provisions for students seeking to transfer to other districts under the enrollment option program.

001.03 Statutory Authority. Article VII, Section 2 of the Constitution of the State of Nebraska and Section 79-301 of the Revised Statutes of Nebraska (R.R.S.) provide, in part, that: “The State Department of Education shall have general supervision and administration of the school system of the state and of such other activities as the Legislature may direct.” This Chapter is adopted pursuant to the constitutional and statutory authority of the Department to prescribe regulations for the accreditation and operation of public schools under Sections 79-301, 79-302, 79-318, and 79-319 R.R.S.; plus Section 79-215 R.R.S., which permits the Department to adopt rules and regulations to carry out the Department’s responsibilities under that statute.

001.04 Related regulations. Several other Nebraska State Department of Education regulation chapters in Title 92 of the Nebraska Administrative Code (NAC) deal with matters related to this Chapter. Chapter 10 deals with accreditation of public schools. Compliance with this Chapter is a condition of continued accreditation under Chapter 10. Chapter 17 deals with alternative education for students expelled under the Student Discipline Act. Chapter 51 is the primary regulation for the provision of special education services and reimbursement after a person is enrolled under this Chapter. Chapter 61 provides procedures for appeals under the enrollment option program and certain provisions of this Chapter. Chapter 81 deals with the General Educational Development (G.E.D.) examination and diplomas of high school equivalency. Regulations of the State Department of Health and Human Services regarding state wards and reimbursement are contained in Title 390, Nebraska Administrative Code, Chapter 10.

001.05 Construction of Enrollment Statutes and Regulations by School Districts.

School districts shall liberally construe state statutes and these regulations pertaining to enrollment determinations. In regard to school enrollment determinations, the Nebraska Supreme Court has held that:

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“Statutes pertaining to our public schools should be liberally construed to the end that all persons of school age may enjoy their privileges . . . Solicitude for the education of its youth has always been characteristic of Nebraska. It is a settled policy of the state that every person of school age shall have an opportunity to attend its free schools.” Martins v. School Dist., 101 Neb. 258 (1917).

002 Definitions. As used in this Chapter:

002.01 Adult shall mean a person nineteen years of age or older, except that, for the purposes of entering into binding contracts or leases, a person eighteen years of age or older who is not a ward of the state is legally responsible for the contract or lease. (see Sections 43-2101 and 43-245(1) R.R.S.).

002.02 Child shall mean an unmarried person under nineteen years of age who is not an emancipated minor (See Section 43-2101 R.R.S. and definition of emancipated minor at 002.06).

002.03 Commissioner shall mean the Commissioner of Education.

002.04 Department shall mean the State Department of Education, which is comprised of the State Board of Education and the Commissioner of Education.

002.05 District shall mean a Nebraska public school district, as defined in Section 79-101 R.R.S.

002.06 Emancipated Minor shall mean a person under nineteen years of age who is married or in the military, and it shall also mean a person under nineteen years of age who resides apart from his or her parents; is not under the care, custody, control, or supervision of his or her parents; and who receives no financial support or services from his or her parents and is responsible for securing his or her own support. The emancipation of a child is a question of fact, to be determined by the peculiar facts and circumstances of each case, and may be proved by circumstantial evidence, by an express agreement, or implied from the conduct of the parties. Emancipation may be terminated by a change of circumstances. For a general discussion of emancipation of minors, see Accent Service Company v. Ebsen, 209 Neb. 94 (1981), Wulff v. Wulff, 243 Neb. 616 (1993) and In re Petition of Anonymous, 279 Neb. 912 (2010).

002.07 Enroll shall mean admitting, allowing to attend, and providing services of the school to a person.

002.08 Guardian shall mean a legal guardian who has been appointed by a court or who has accepted a testamentary appointment, such as provided in Section 30-2605 R.R.S.

002.09 “Homeless children and youths” and “homeless student” shall mean a person who meets the definition of homeless children and youths in Title 42, United States Code, Section 11434a, which is:

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002.09A An individual who lacks a fixed, regular, and adequate nighttime residence (within the meaning of 42 U.S.C. 11302(a)(1)); and

002.09B Includes:

002.09B1 Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency shelters; are abandoned in hospitals; or are awaiting foster care placement;

002.09B2 Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of 42 U.S.C. 11302(a)(2)(C));

002.09B3 Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

002.09B4 Migratory children (as defined in 20 U.S.C. 6399) who qualify as homeless for the purposes of this section because the children are living in circumstances described in subsections 002.09B1 through 002.09B3.

002.10 Legal or Actual Charge or Control shall refer to the status of parents, legal guardians, persons standing in loco parentis to a child, persons with a power of attorney that delegates parental authority, or any other person who has been entrusted with, or assumed, the day-to-day care and full-time supervision of, and responsibility for, a child.

002.11 In Loco Parentis shall refer to a situation in which a child, with the consent of a parent or legal guardian, goes to live with another person with the understanding that the person the child lives with is to care for the child and stands in the place of a parent or legal guardian. A person who stands in loco parentis to a child may demand from a school district every right to which his or her own natural child is entitled. (See Mizner v. School Dist. No. 11 of Sherman County, 2 Neb. (Unof.) 238 (1901)). A person standing in loco parentis to a child is one who has put himself or herself in the situation of a lawful parent by assuming the obligations incident to the parental relation without going through the formalities necessary to adoption, and the rights, duties, and liabilities of such person are the same as those of the lawful parent. The assumption of the relation is a question of intention, which may be shown by the acts and declarations of the person alleged to stand in that relation. (See Austin v. Austin, 147 Neb. 109 (1946), which is also referenced in a number of other cases, including State on Behalf of Hopkins v. Batt, 253 Neb. 852 (1998)).

002.12 Nonresident shall mean a person who does not have a residence in the district (see Section 002.14 for definition of Residence).

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002.13 Parent shall mean the lawful father or mother of a child, including adoptive parents. A guardian or any other person in legal or actual charge or control of a child (see definition in Sections 002.08 and 002.10 of this Chapter) who enrolls a child in school under the provisions of this Chapter shall be considered to be acting as a parent for all education purposes, such as release of student records and the making of education decisions for the child unless otherwise restricted by law.

002.14 Residence shall mean that place in which a person is actually domiciled, which is one's established home and the place to which one intends to return when absent therefrom. It is the place where a person is actually living full-time, as opposed to vacationing or visiting. It should be noted that, pursuant to Section 79-215 R.R.S. and this Chapter, a child may have a residence for school enrollment purposes that is separate from the residence of his or her parents or guardian. An example of such a situation is when a child resides in a different district than his or her parents, under the legal or actual charge or control of an adult acting in loco parentis, or an adult who has a power of attorney under §30-2604 R.R.S. (See also the opinion of the United States Court of Appeals, Eighth Circuit, in the case of Horton v. Marshall Public Schools, 769 F.2d 1323 (1985)). It should also be noted that the Legislature has provided for several circumstances in which a person may enroll in a school district other than the district in which that person has a residence (See Section 79-215 R.R.S. in Appendix C). Lawful citizenship or presence does not determine residency.

002.15 Residency shall mean having a residence in a place.

002.16 Resident shall mean a person who has his or her residence in a place. It should be noted that the Legislature has specifically provided in Section 79-215 (1) R.R.S. that, except as otherwise provided in §79-215 R.R.S., a student is a resident of the school district where he or she resides and shall be admitted to any such school district upon request without charge. The Legislature has also provided in §79-215 R.R.S. for several circumstances in which a student either shall or may be enrolled in a school district in which they are not a resident. (See Appendix C). For example, a school board shall admit a student upon request without charge if at least one of the student's parents resides in the school district. (Section 79-215(2) R.R.S.).

002.17 Reside shall mean to live in a place that is one's residence.

002.18 Student shall mean all persons (including children, emancipated minors, and adults) between the ages of five and twenty-one who have not completed high school or received a diploma of high school equivalency and who a school district is required or authorized to enroll.

003 Enrollment Requirements. A public school district shall, upon request, enroll and provide free instruction to any person between the ages of 5 and 21 who has not completed high school, or received a diploma of high school equivalency, and who the school district is required to enroll under the provisions of Section 79-215 R.R.S., subject to the provisions of all other applicable requirements of state law and regulations related to enrollment and attendance. A text of that statute is included in Appendix C.

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003.01 Other Statutory and Regulatory Requirements. Other requirements of state law related to enrollment include, but are not limited to: §§79-201 through 79-210 R.R.S. regarding compulsory education; §79-214 R.R.S. regarding kindergarten admission; §79-216 R.R.S. regarding children of members of the military or of federal employees living on national parks or monuments; §§79-217 through 79-223 R.R.S. regarding immunizations; §§79-254 through 79-294 R.R.S. regarding the Student Discipline Act; §79-266.01 R.R.S. regarding enrollment of expelled students; §79-526 R.R.S. regarding the duty of districts to make provisions for students entering at any time during the school year; and §43-2007 R.R.S., regarding Missing Children Identification Act dealing with birth certificates or other proof of identity. Other regulatory requirements related to enrollment include, but are not limited to, those listed in Section 001.04.

003.02 Prohibited prerequisites to enrollment. A student who is entitled to or may lawfully enroll in and attend a public school, or the parent, guardian or other person having charge or control of such student shall not, unless otherwise permitted by law, be made to present any documentation or do any act prior to the student being allowed to enroll or attend. Unless permitted by law, this prohibition includes, but is not limited to, requiring as a pre-condition to enrollment or attendance any of the following:

003.02A Submission of social security card or number, which is subject to the Federal Privacy Act (Title 5, U.S.C., Section 552a (note));

003.02B Presentation of a certified copy of a birth certificate or other proof of identity and age, which is subject to the Missing Children's Identification Act (Section 43-2007 R.R.S.);

003.02C Receipt by the district of transcripts, grades or other records from previously attended schools (see Section 79-2,105 R.R.S.).

003.02D The payment of any fee, including those fees authorized by the Public Elementary and Secondary Student Fee Authorization Act (Sections 79-2,125 to 79-2,135 R.R.S.), except for fees for enrollment or participation in the specific courses or activities allowed under Section 79-2,127 R.R.S..

003.02E Presentation of proof that a child who seeks to enroll or his or her parent, as defined in section 002.13 of this Chapter, is a citizen of the United States or is a legally admitted alien. See Plyler v. Doe, 457 U.S. 202 (1982); and also Section 011 of this Chapter.

003.03 Termination of Enrollment. If an enrolled student ceases to be eligible for required enrollment for free instruction under the provisions of Section 79-215 R.R.S., a district may terminate the enrollment of the student, or may continue the enrollment under the provisions of §79-215(4) R.R.S. or any other provision of §79-215 R.R.S. that may subsequently become applicable. When a student is a child of compulsory attendance age and is denied enrollment or his or her enrollment is terminated other than as the result of expulsion under the Student Discipline Act, the district, if it is

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not aware that the child is enrolled elsewhere, shall (a) report such circumstance to the attendance officer of the district in which the child should be enrolled or, if it cannot determine in what other district the child should be enrolled, report such action to the Department of Health and Human Services or law enforcement officials pursuant to Section 28-711 R.R.S.; and (b) cooperate with and assist such officials in attempting to ensure that the child is not neglected and is promptly re-enrolled in a school.

003.04 Students Entering During the School Year. A district shall make provisions for students that may enter at any time during the school year. A district that enrolls a student during the school year shall give the student the opportunity to earn full credit for the courses in which the student is enrolled if the student is able to demonstrate mastery of the subject matter and/or completion of course requirements, other than attendance, at a level required for other students to receive credit who have been enrolled throughout the period for which the credit is to be granted. The district may use a review of transcripts from prior schools attended, standardized tests, assessments, and/or teacher evaluations of student competency in the subject matter to make such a determination. A school district may use the same evaluation alternatives to award or recognize credit for past course work completed elsewhere and/or through demonstrated mastery of subject matter.

003.05 Students with diplomas or other certificates of completion from other states, territories or countries. If a person under age twenty-one seeks to enroll as is provided for in Sections 001.01 and 003 of this Chapter, and such a person already possesses or was granted a diploma or other certificate of completion of the school system or the course of studies of another state, territory or country, the district has authority, pursuant to §§79-201(3)(a) and 79-526 R.R.S. and Section 003.04 of this Chapter to make a professional educational determination regarding whether or not the person's completion of that course of studies is substantially equivalent to completion of the graduation requirements in § 79-729 R.R.S. If so, the person is not required to be enrolled.

004 Contract Dispute Resolution. If two school districts cannot agree on the amount of a contract under subsection (10)(b) of §79-215 R.R.S. (see Appendix C of this Chapter for full text of the law), that statute provides, in part, that:

“ . . . the State Department of Education shall determine the amount to be paid by the resident district to the district in which such residential setting is located based on the needs of the student, approved special education rates, the department's general experience with special education budgets, and the cost per student in the district in which such residential setting is located.”

004.01 Request for Determination. If the districts cannot agree on a contract amount, either district may submit a written request for determination of the amount to the Commissioner. The Commissioner may designate another person to make the determination on his or her behalf.

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004.01A The Commissioner, or his or her designee, shall consider such information as may be provided by the districts in writing, or in any informal meetings the Commissioner, or his or her designee, may choose to conduct with representatives of both districts.

004.01B The Commissioner, or his or her designee, shall base their determination on the factors specified in §79-215(10)(b) R.R.S.

004.01C The determination by the Commissioner, or his or her designee, shall be provided to the districts in writing.

004.02 Appeal. If either district is dissatisfied with the determination of the Commissioner, or his or her designee, the determination may be appealed to the State Board of Education pursuant to 92 NAC 61.

005 Enrollment of homeless children and youths

005.01 General Requirements. A district shall follow all requirements for the education of the homeless under the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et. seq., including, but not limited to, the provision of comparable services to homeless children or youths enrolled, the designation of local agency education (district) homeless liaison, notification to the parents or guardians of homeless children and youth of the educational rights and opportunities available under law, and a district dispute resolution process for disputes regarding the educational placement of homeless children and youths.

005.02 Dispute Resolution Process. The district's dispute resolution process referred to in Section 005.01 shall provide for (a) the district's written response and explanation of a decision regarding any complaint or dispute of a parent, guardian or other person having legal or actual charge or control of a homeless child or youth within thirty (30) calendar days of the time such complaint or dispute is brought; (b) the enrollment of the homeless child or youth in the school where enrollment is sought during the time such dispute is being considered; and (c) notice of the right appeal as provided in Section 005.03 below.

005.03 Appeals. Any parent, guardian or other person having legal or actual charge or control of a homeless child or youth that is dissatisfied with the decision of a school district after the dispute resolution process may file an appeal with the Commissioner within thirty (30) calendar days of receipt of the decision. Such appeals are informal and shall be submitted to the Commissioner in writing stating the basis of the disagreement, and shall also include a copy of the district's written response and explanation of its decision as required in Section 005.02. The district shall be supplied a copy of the written appeal by the Commissioner or designee and the district(s) may file a written response thereto within fifteen (15) calendar days of receipt of it. If either party requests a hearing, an informal hearing will be scheduled by the Commissioner or designee within thirty (30) calendar days after the expiration of the time by which the district is to respond. If no hearing is requested, the Commissioner shall decide the matter based on the submissions of the parties, and may also request further written information and

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clarification from the parties. The Commissioner or designee shall issue a written decision determining whether or not the provisions of the McKinney-Vento Act have been followed.

005.03C A party may appeal the decision of the Commissioner or designee by filing a Petition with the State Board of Education within thirty (30) calendar days of the receipt of the decision. Such appeal shall be governed by 92 NAC 61, and shall also determine whether or not the provisions of the McKinney-Vento Act have been followed.

006 Compulsory Attendance Enforcement. The compulsory education statutes contained in Sections 79-201 through 79-210 R.R.S. impose a number of duties on superintendents, principals, teachers, school board members, and attendance officers, as well as persons in legal or actual charge or control of children. State law provides that persons violating the provisions of those statutes shall be guilty of a Class III misdemeanor (See Section 79-210 R.R.S.).

007 Compliance as a Mandatory Condition for School Accreditation. Each public school district shall comply with all the provisions of this Chapter as a condition for accreditation. Failure to comply with this Chapter shall be treated as if it were a violation of a mandatory provision of 92 NAC 10, and may subject the district to loss of accreditation as provided in that chapter.

008 Enrollment Option Program. Pursuant to Sections 79-232 through 79-246 R.R.S. the Legislature has established the enrollment option program to enable any kindergarten through twelfth grade student to attend a school in a Nebraska public school district in which the student does not reside, subject to the limitations prescribed in Section 79-238 R.R.S. Copies of the enrollment option program statutes are contained in Appendix D. The application, late application waiver/approval and cancellation forms for the enrollment option program are available from the Department, as provided in Section 79-237 R.R.S., and are available on the internet at <http://www.education.ne.gov/FOS/OrgServices/EnrollmentOption/Default.htm>. Any appeals under Section 79-239 R.R.S. are governed by the provisions of 92 NAC 61.

008.01 Late Applications. In accordance with Section 79-237 R.R.S., no district may enroll as an option student any student whose application for enrollment option was submitted to the district after the March 15 deadline and did not contain a signed and dated release approval form. Such applications shall be considered incomplete. An option district may enroll an option student after such form is subsequently provided.

008.01A In addition to the consequences provided for violations of this Chapter, 92 NAC 8-006.02B provides authority for the Department to investigate violations of this section and to adjust a district's option funding if violations are found.

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009 Open Enrollment in a Learning Community. A school board of any school district that is a member of a learning community shall admit nonresident students to the school district pursuant to the open enrollment provisions of a diversity plan in a learning community as authorized by Section 79-2110, and such admission shall be without charge. In any learning community established pursuant to §§79-4,117 through 79-4,129 and §§79-2101 through 79-2102 R.R.S., a diversity plan that provides for open enrollment in all school buildings in the learning community subject to specific limitations necessary to bring about diverse enrollments is to be established. A copy of the open enrollment statute pertaining to learning communities is contained in Appendix E.

010 Part-time Enrollment. Pursuant to Section 79-2,136 R.R.S., each school board shall allow the part-time enrollment of students who are residents of the school district pursuant to subsections (1) and (2) of §79-215 R.R.S. and who are also enrolled in a private, denominational, or parochial school or in a school which elects pursuant to §79-1601 R.R.S. not to meet accreditation or approval requirements and shall establish policies and procedures for such part-time enrollment. Such policies and procedures may include provisions permitting the part-time enrollment of such students who are not residents of such school districts and may require part-time students to follow school policies that apply to other students at any time the part-time student is present on school grounds or at a school-sponsored activity or athletic event. Part-time enrollment shall not entitle a student to transportation or transportation reimbursements pursuant to §79-611 R.R.S.. Nothing in this section shall be construed to exempt any student from the compulsory attendance provisions of Sections 79-201 to 79-207 R.R.S.

011 Foreign/Foreign Exchange Students. In cases where a student seeks to enroll based on visa status, various federal laws, regulations and requirements may apply depending on the type of visa. A list of the most commonly occurring visa classifications involving K-12 students and several informational web sites regarding this topic are provided in Appendix F. Children and children of parents or guardians who are not citizens or legally present in the United States shall not be denied enrollment on that basis. See Section 003.02 of this Chapter.

011.01 J-1 “Exchange Visitor” Visas. Students enrolled under this program as foreign exchange students may be classified as “contract students” attending under Section 79-215(8) R.R.S. (see Appendix C). The district may waive tuition for these students.

012 Forms. Included as appendices to this Chapter are two forms.

012.01 Statement of Person Acting as a Parent Form (Appendix A). This form is to be used by a district for purposes of Section 79-215(13) R.R.S., which provides, in part, that:

(13) On a form prescribed by the State Department of Education, an adult with legal or actual charge or control of the student shall provide the name of the student, the name of the adult with legal or actual charge or control of the student, the address where the student is residing, and the phone number and address where the adult may generally be reached during the school day. If the

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student is homeless or if the adult does not have a phone number and address where he or she may generally be reached during the school day, those parts of the form may be left blank and a box may be marked acknowledging that these are the reasons these parts of the form were left blank. The adult with legal or actual charge or control of the student shall also sign the form.

012.02 Sample Power of Attorney Form (Appendix B). This sample form is a power of attorney delegating powers of a parent under Section 30-2604 R.R.S. This form is included as a sample for adults in legal or actual control of a child who may find a form of this nature useful in specific situations. No person or district is required to use this form, or any power of attorney form, nor can a district mandate its use as a condition for enrollment of a child. Such a power of attorney may be effective for six (6) months at a time, although a new power of attorney may be created upon its expiration. It is recommended that a person consult their own attorney before using any legal form.

**STATEMENT OF PERSON IN LEGAL OR ACTUAL CHARGE OR CONTROL OF A CHILD
SUBMITTED TO _____ FOR PURPOSES OF SCHOOL ENROLLMENT**
(School District Name)

The undersigned state that I am an adult in legal or actual charge or control of _____,
(Child's Name)
a child who resides in this school district at _____ OR
(Child's Address)

The child does not reside in this district, but a parent of the child, _____
(Parent's Full Name)
does reside in this district at _____
(Parent's address)

- I state that I am the child's parent, or
- I state that I have been entrusted with, or assumed, day-to-day care and full-time supervision of, and responsibility for, the child and have been given the authority to act as parent or guardian in educational matters as established by (check all that apply):
- a) a court or testamentary appointment as a legal guardian (attach copy) and/or
 - b) a power of attorney delegating such parental powers (attach copy), and/or
 - c) through an in loco parentis designation by a parent in which I have been authorized to stand in the place of the parent in caring for and raising the child (attach any written documentation of such designation), and/or
 - d) through any contract or judicial or administrative proceeding placing the child in such a living arrangement (attach copy of such documents), and/or
 - e) through some other set of circumstances (please explain on a separate sheet).

I understand that I may be requested to provide additional information regarding this child. The names and current or last known address of his or her parents are:

I understand that I will be responsible for, and will be expected to make, decisions regarding education (including, but not limited to, records, discipline, and special education unless otherwise provided under special education laws and regulations), emergency medical care, and other matters for this child while in legal or actual charge or control of this child and I state that I have the authority to take such responsibility and to make such decisions and to so act. I also understand that I will have responsibilities under the state truancy laws to cause this child to attend school.

Signature of Adult In Legal or Actual Charge or Control

Dated _____, _____.

Home Address of Adult in Legal or Actual Charge or Control

Home Phone: _____

Daytime Work Address

Daytime Work Phone: _____

NOTE: SECTION 79-215 R.R.S. PROVIDES THAT IF THE STUDENT IS HOMELESS OR IF THE ADULT DOES NOT HAVE A TELEPHONE NUMBER AND ADDRESS WHERE THE ADULT MAY GENERALLY BE REACHED DURING THE SCHOOL DAY. IF THE STUDENT IS HOMELESS OR IF THE ADULT DOES NOT HAVE A TELEPHONE NUMBER AND ADDRESS WHERE HE OR SHE MAY GENERALLY BE REACHED DURING THE SCHOOL DAY, THOSE PARTS OF THE FORM MAY BE LEFT BLANK AND A BOX MAY BE MARKED ACKNOWLEDGING THAT THESE ARE THE REASONS THESE PARTS OF THE FORM WERE LEFT BLANK. THE ADULT WITH LEGAL OR ACTUAL CHARGE OR CONTROL OF THE STUDENT SHALL ALSO SIGN THE FORM.

- This child is homeless, which is the reason items were left blank.
- This adult does not have a phone number or address where they may generally be reached during the school day.

Further Note: It is contrary to state law for persons to intentionally submit false information to a school district in an attempt to fraudulently obtain services of the district for themselves or another or to impede the district in its enrollment determination.

SAMPLE FORM

**POWER OF ATTORNEY DELEGATING POWERS UNDER
NEBRASKA REVISED STATUTES SECTION 30-2604**

The undersigned, being residents of _____, Nebraska, state that we are the parent(s) or guardian(s) of _____, a minor, and hereinafter referred to as the "ward". Pursuant to Nebraska Revised Statutes Section 30-2604, we hereby delegate to _____ of _____, Nebraska, who is designated attorney-in-fact for this purpose, all powers delegable under Nebraska Revised Statutes Section 30-2604, regarding the care, custody and property of said ward including power to make decisions regarding the education of said ward (including but not limited to decisions regarding special education, discipline, and the individuals who may take said ward out of school prior to the dismissal hour), to consent to surgical operations and medical and dental treatment and to receive delivery or payment of money and property due said ward. This Power of Attorney does not delegate to the attorney-in-fact the power to consent to marriage of said ward or the adoption of said ward, if a minor.

This delegation is made for a period of six (6) months beginning _____, _____, or until written notice of earlier revocation signed by the parent(s) or guardian(s) is received by the designated attorney-in-fact and any person dealing with the designated attorney-in-fact regarding said ward.

This Power of Attorney shall not be affected by subsequent disability or incapacity of the undersigned parent(s) or guardian(s) and shall remain in effect, notwithstanding later disability or incapacity of the undersigned or later uncertainty as to whether the undersigned may be dead or alive.

Dated _____, _____.

Parent (or Guardian)

Parent (or Guardian)

STATE OF NEBRASKA)
) ss.
COUNTY OF)

Before me, a Notary Public, qualified in and for said county, personally came _____ and _____, known to me to be the identical person(s) and signed the foregoing instrument and acknowledged the execution thereof to be his/her/their voluntary act and deed. Witness my hand and notarial seal on _____, _____.

Notary Public

My Commission Expires: _____, _____.

NOTE: THIS IS A SAMPLE FORM. IT IS RECOMMENDED A PERSON CONSULT THEIR OWN ATTORNEY BEFORE EXECUTING THIS OR ANY LEGAL FORM. THIS CHAPTER DOES NOT REQUIRE A PERSON OR SCHOOL DISTRICT TO USE THIS SPECIFIC FORM OR ANY POWER OF ATTORNEY FORM, NOR MAY A SCHOOL DISTRICT REQUIRE ITS COMPLETION AS A CONDITION FOR ENROLLING A CHILD.

Sections 79-215 of the Revised Statutes of Nebraska (Student Admission)

79-215. Students; admission; tuition; persons exempt; department; duties.

(1) Except as otherwise provided in this section, a student is a resident of the school district where he or she resides and shall be admitted to any such school district upon request without charge.

(2) A school board shall admit a student upon request without charge if at least one of the student's parents resides in the school district.

(3) A school board shall admit any homeless student upon request without charge.

(4) A school board may allow a student whose residency in the district ceases during a school year to continue attending school in such district for the remainder of that school year.

(5) A school board may admit nonresident students to the school district pursuant to a contract with the district where the student is a resident and shall collect tuition pursuant to the contract.

(6) A school board may admit nonresident students to the school district pursuant to the enrollment option program as authorized by sections 79-232 to 79-246, and such admission shall be without charge.

(7) A school board of any school district that is a member of a learning community shall admit nonresident students to the school district pursuant to the open enrollment provisions of a diversity plan in a learning community as authorized by section 79-2110, and such admission shall be without charge.

(8) A school board may admit a student who is a resident of another state to the school district and collect tuition in advance at a rate determined by the school board.

(9) When a student as a ward of the state or as a ward of any court (a) has been placed in a school district other than the district in which he or she resided at the time he or she became a ward and such ward does not reside in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 or (b) has been placed in any institution which maintains a special education program which has been approved by the State Department of Education and such institution is not owned or operated by the district in which he or she resided at the time he or she became a ward, the cost of his or her education and the required transportation costs associated with the student's education shall be paid by the state, but not in advance, to the receiving school district or approved institution under rules and regulations prescribed by the Department of Health and Human Services and the student shall remain a resident of the district in which he or she resided at the time he or she became a ward. Any student who is a ward of the state or a ward of any court who resides in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 shall be deemed a resident of the district in which he or she resided at the time he or she became a foster child, unless it is determined under section 43-1311 or 43-1312 that he or she will not attend such district in which case he or she shall be deemed a resident of the district in which the foster family home or foster home is located.

(10)(a) When a student is not a ward of the state or a ward of any court and is residing in a residential setting located in Nebraska for reasons other than to receive an education and the residential setting is operated by a service provider which is certified or licensed by the Department of Health and Human Services or is enrolled in the medical assistance program established pursuant to the Medical Assistance Act and Title XIX or XXI of the federal Social Security Act, as amended, the student shall remain a resident of the district in which he or she resided immediately prior to residing in such residential setting. The resident district for a student who is not a ward of the state or a ward of any court does not change when the student moves from one residential setting to another.

(b) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting does not maintain an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the resident school district shall contract with the district in which such residential setting is located for the provision of all educational services, including all special education services and support services as defined in section 79-1125.01, unless a parent or guardian and the resident school district agree that an appropriate education will be provided by the resident school district while the student is residing in such residential setting. If the resident school district is required to contract, the district in which such residential setting is located shall contract with the resident district and provide all educational services, including all special education services, to the student. If the two districts cannot agree on the amount of the contract, the State Department of Education shall determine the amount to be paid by the resident district to the district in which such residential setting is located based on the needs of the student, approved special education rates, the department's general experience with special education budgets, and the cost per student in the district in which such residential setting is located. Once the contract has been entered into, all legal responsibility for special education and related services shall be transferred to the school district in which the residential setting is located.

(c) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting maintains an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the department shall reimburse such residential setting for the provision of all educational services, including all special education services and support services, with the amount of payment for all educational services determined pursuant to the average per pupil cost of the service agency as defined in section 79-1116. The resident school district shall retain responsibility for such student's individualized education plan, if any. The educational services may be provided through (i) such interim-program school or approved or accredited school, (ii) a contract between the residential setting and the school district in which such residential setting is located, (iii) a contract between the residential setting and another service agency as defined in section 79-1124, or (iv) a combination of such educational service providers.

(d) If a school district pays a school district in which a residential setting is located for educational services provided pursuant to subdivision (10)(b) of this section and it is later determined that a different school district was the resident school district for such student at the time such educational services were provided, the school district that was later determined to be the resident school district shall reimburse the school district that initially paid for the educational services one hundred ten percent of the amount paid.

(e) A student residing in a residential setting described in this subsection shall be defined as a student with a handicap pursuant to Article VII, section 11, of the Constitution of Nebraska, and as such the state and any political subdivision may contract with institutions not wholly owned or controlled by the state or any political subdivision to provide the educational services to the student if such educational services are nonsectarian in nature.

(11) In the case of any individual eighteen years of age or younger who is a ward of the state or any court and who is placed in a county detention home established under section 43-2,110, the cost of his or her education shall be paid by the state, regardless of the district in which he or she resided at the time he or she became a ward, to the agency or institution which: (a) Is selected by the county board with jurisdiction over such detention home; (b) has agreed or contracted with such county board to provide educational services; and (c) has been approved by the State Department of Education pursuant to rules and regulations prescribed by the State Board of Education.

(12) No tuition shall be charged for students who may be by law allowed to attend the school without charge.

(13) On a form prescribed by the State Department of Education, an adult with legal or actual charge or control of a student shall provide the name of the student, the name of the adult with legal or actual charge or control of the student, the address where the student is residing, and the telephone number and address where the adult may generally be reached during the school day. If the student is homeless or if the adult does not have a telephone number and address where he or she may generally be reached during the school day, those parts of the form may be left blank and a box may be marked acknowledging that these are the reasons these parts of the form were left blank. The adult with legal or actual charge or control of the student shall also sign the form.

(14) The department may adopt and promulgate rules and regulations to carry out the department's responsibilities under this section.

Source:Laws 1881, c. 78, subdivision V, § 4, p. 352; Laws 1883, c. 72, § 11, p. 293; Laws 1901, c. 63, § 10, p. 440; R.S.1913, § 6784; Laws 1921, c. 64, § 1, p. 250; C.S.1922, § 6325; Laws 1927, c. 88, § 1, p. 257; C.S.1929, § 79-504; R.S.1943, § 79-504; Laws 1947, c. 273, § 1, p. 877; Laws 1949, c. 256, § 84, p. 720; Laws 1972, LB 1219, § 1; Laws 1974, LB 43, § 1; Laws 1979, LB 128, § 1; Laws 1980, LB 770, § 1; Laws 1980, LB 839, § 1; Laws 1982, LB 642, § 1; Laws 1984, LB 286, § 1; Laws 1984, LB 768, § 1; Laws 1985, LB 592, § 1; Laws 1985, LB 725, § 1; Laws 1991, LB 511, § 29; Laws 1992, LB 245, § 34; Laws 1992, Third Spec. Sess., LB 3, § 1; Laws 1994, LB 858, § 5; R.S.1943, (1994), § 79-445; Laws 1996, LB 900, § 19; Laws 1996, LB 1044, § 814; Laws 1997, LB 307, § 212; Laws 2000, LB 1243, § 2; Laws 2001, LB 797, § 5; Laws 2002, LB 1105, § 503; Laws 2006, LB 1248, § 87; Laws 2008, LB1014, § 68; Laws 2010, LB1071, § 3; Laws 2010, LB1087, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1071, section 3, with LB1087, section 1, to reflect all amendments.

Note: Changes made by LB1071 became operative July 15, 2010. Changes made by LB1087 became operative August 1, 2010.

**Sections 79-232 to 79-246 of the Revised Statutes of Nebraska
(Enrollment Option Program)**

79-232. Legislative findings.

The Legislature finds and declares that parents and legal guardians have the primary responsibility of ensuring that their children receive the best education possible. In recognition of this responsibility, the Legislature intends to provide educational options for parents and legal guardians, when deciding what public school or public school district is best for their children, by allowing them to consider the following factors, including, but not limited to:

- (1) The size of the schools and school districts in the area;
- (2) The distance children have to travel and the ease and availability of transportation;
- (3) The course offerings and extracurricular offerings of the schools and school districts in the area;
- (4) The quantity and quality of the staff at such schools and school districts; and
- (5) The performance of the school district on any indicators of performance established by the State Department of Education.

Source:Laws 1989, LB 183, § 1; Laws 1994, LB 930, § 1; R.S.1943, (1994), § 79-3401; Laws 1996, LB 900, § 36; Laws 2006, LB 1024, § 17.

79-233. Terms, defined.

For purposes of sections 79-232 to 79-246:

- (1) Enrollment option program means the program established in section 79-234;
- (2) Option school district means the public school district that an option student chooses to attend instead of his or her resident school district;
- (3) Option student means a student that has chosen to attend an option school district, including a student who resides in a learning community and began attendance as an option student in an option school district in such learning community prior to the end of the first full school year for which the option school district will be a member of such learning community, but not including a student who resides in a learning community and who attends pursuant to section 79-2110 another school district in such learning community;

(4) Resident school district means the public school district in which a student resides or the school district in which the student is admitted as a resident of the school district pursuant to section 79-215; and

(5) Siblings means all children residing in the same household on a permanent basis who have the same mother or father or who are stepbrother or stepsister to each other.

Source:Laws 1989, LB 183, § 2; Laws 1990, LB 843, § 3; Laws 1992, LB 1001, § 36; R.S.1943, (1994), § 79-3402; Laws 1996, LB 900, § 37; Laws 1997, LB 347, § 4; Laws 2006, LB 1024, § 18; Laws 2008, LB988, § 3; Laws 2009, LB62, § 1; Laws 2009, LB549, § 4.

79-234. Enrollment option program; established; limitations.

(1) An enrollment option program is hereby established to enable any kindergarten through twelfth grade Nebraska student to attend a school in a Nebraska public school district in which the student does not reside subject to the limitations prescribed in section 79-238. The option shall be available only once to each student prior to graduation unless (a) the student relocates to a different resident school district, (b) the option school district merges with another district, (c) the option school district is a Class I district, (d) the option would allow the student to continue current enrollment in a school district, or (e) the option would allow the student to enroll in a school district in which the student was previously enrolled as a resident student. In the case of an event described in subdivision (1)(a) or (b) of this section, the student's parent or guardian shall submit an application to the new option school district within thirty days after the date of relocation or the effective date of the merger. This subsection does not relieve a parent or guardian from the compulsory attendance requirements in section 79-201 during the pendency of such application or approval.

(2) The program shall not apply to any student who resides in a district which has entered into an annexation agreement pursuant to section 79-473, except that such student may transfer to another district which accepts option students.

Source:Laws 1989, LB 183, § 3; Laws 1990, LB 843, § 4; Laws 1991, LB 207, § 3; Laws 1993, LB 348, § 64; R.S.1943, (1994), § 79-3403; Laws 1996, LB 900, § 38; Laws 2008, LB1154, § 7; Laws 2009, LB549, § 5.

79-235. Option students; treatment; building assignment.

For purposes of all duties, entitlements, and rights established by law, including special education as provided in section 79-1127, except as provided in section 79-241, option students shall be treated as resident students of the option school district. The option student may request a particular school building, but the building assignment of the option student shall be determined by the option school district. In determining eligibility for extracurricular activities as defined in section 79-2,126, the option student shall be treated

similarly to other students who transfer into the school from another public, private, denominational, or parochial school.

Source:Laws 1989, LB 183, § 4; Laws 1990, LB 843, § 5; R.S.1943, (1994), § 79-3404; Laws 1996, LB 900, § 39; Laws 1996, LB 1050, § 8; Laws 2003, LB 249, § 1.

79-236. Program; implementation.

Beginning with the 1993-94 school year, the enrollment option program shall be implemented by all public school districts.

Source:Laws 1989, LB 183, § 5; Laws 1990, LB 843, § 6; Laws 1991, LB 207, § 4; Laws 1993, LB 348, § 65; R.S.1943, (1994), § 79-3405; Laws 1996, LB 900, § 40.

79-237. Attendance; application; cancellation; forms.

(1) For a student to begin attendance as an option student in an option school district which is not in a learning community in which the student resides, the student's parent or legal guardian shall submit an application to the school board of the option school district between September 1 and March 15 for attendance during the following and subsequent school years. Applications submitted after March 15 shall contain a release approval from the resident school district on the application form prescribed and furnished by the State Department of Education pursuant to subsection (7) of this section. A district may not accept or approve any applications submitted after such date without such a release approval. The option school district shall provide the resident school district with the name of the applicant on or before April 1 or, in the case of an application submitted after March 15, within sixty days after submission. The option school district shall notify, in writing, the parent or legal guardian of the student, the resident school district, and the State Department of Education whether the application is accepted or rejected on or before April 1 or, in the case of an application submitted after March 15, within sixty days after submission.

(2) For a student who resides in a learning community to begin attendance in an option school district which is a member of such learning community, the student's parent or legal guardian shall submit an application to the school board of the option school district (a) for any learning community established prior to February 13, 2009, between February 13, 2009, and April 1, 2009, or (b) for any learning community established thereafter, between September 1 and March 15. Applications submitted after such deadlines shall be accompanied by a written release from the resident school district. Students who reside in a learning community shall only begin attendance in an option school district which is a member of such learning community prior to the end of the first full school year for which the option school district is a member of such learning community. The option school district shall provide the resident school district with the name of the applicant within five days after the applicable deadline. The option school district shall notify, in writing, the parent or legal guardian of the student, the resident school district, and the State

Department of Education whether the application is accepted or rejected on or before April 10 for applications submitted for school year 2009-10 and on or before April 1 for applications submitted for any school year thereafter. A parent or guardian may provide information on the application regarding the applicant's potential qualification for free or reduced-price lunches. Any such information provided shall be subject to verification and shall only be used for the purposes of subsection (4) of section 79-238. Nothing in this subsection requires a parent or guardian to provide such information. Determinations about an applicant's qualification for free or reduced-price lunches for purposes of subsection (4) of section 79-238 shall be based on any verified information provided on the application. If no such information is provided, the student shall be presumed not to qualify for free or reduced-price lunches for the purposes of subsection (4) of section 79-238.

(3) Applications for students who do not actually attend the option school district may be withdrawn in good standing upon mutual agreement by both the resident and option school districts.

(4) No option student shall attend an option school district for less than one school year unless the student relocates to a different resident school district, completes requirements for graduation prior to the end of his or her senior year, transfers to a private or parochial school, or upon mutual agreement of the resident and option school districts cancels the enrollment option and returns to the resident school district.

(5) Except as provided in subsection (4) of this section, the option student shall attend the option school district until graduation unless the student relocates in a different resident school district, transfers to a private or parochial school, or chooses to return to the resident school district.

(6) In each case of cancellation pursuant to subsections (4) and (5) of this section, the student's parent or legal guardian shall provide written notification to the school board of the option school district, the resident school district, and the department on forms prescribed and furnished by the department under subsection (7) of this section in advance of such cancellation.

(7) The application and cancellation forms shall be prescribed and furnished by the State Department of Education.

(8) An option student who subsequently chooses to attend a private or parochial school shall be automatically accepted to return to either the resident school district or option school district upon the completion of the grade levels offered at the private or parochial school. If such student chooses to return to the option school district, the student's parent or legal guardian shall submit another application to the school board of the option school district which shall be automatically accepted, and the deadlines prescribed in this section shall be waived.

Source:Laws 1989, LB 183, § 6; Laws 1990, LB 843, § 7; Laws 1993, LB 348, § 66; Laws 1993, LB 838, § 1; R.S.1943, (1994), § 79-3406; Laws 1996, LB 900, § 41; Laws 2001, LB 797, § 6; Laws 2006, LB 1024, § 19; Laws 2009, LB62, § 2; Laws 2009, LB549, § 6.

79-238. Application acceptance and rejection; standards; request for release; standards and conditions.

(1) Except as provided in section 79-240, the school board of the option school district shall adopt by resolution specific standards for acceptance and rejection of applications. Standards may include the capacity of a program, class, grade level, or school building or the availability of appropriate special education programs operated by the option school district. Capacity shall be determined by setting a maximum number of option students that a district will accept in any program, class, grade level, or school building, based upon available staff, facilities, projected enrollment of resident students, projected number of students with which the option school district will contract based on existing contractual arrangements, and availability of appropriate special education programs. The school board of the option school district may by resolution declare a program, a class, or a school unavailable to option students due to lack of capacity. Standards shall not include previous academic achievement, athletic or other extracurricular ability, disabilities, proficiency in the English language, or previous disciplinary proceedings except as provided in section 79-266.01. False or substantively misleading information submitted by a parent or guardian on an application to an option school district may be cause for the option school district to reject a previously accepted application if the rejection occurs prior to the student's attendance as an option student.

(2) The school board of every school district shall also adopt standards and conditions for acceptance or rejection of a request for release of a resident student submitting an application to an option school district after March 15 under subsection (1) of section 79-237.

(3) Any option school district shall give first priority for enrollment to siblings of option students, except that the option school district shall not be required to accept the sibling of an option student if the district is at capacity except as provided in subsection (1) of section 79-240.

(4) Any option school district that is in a learning community shall give second priority for enrollment to students who reside in the learning community and who contribute to the socioeconomic diversity of enrollment as defined in section 79-2110 at the school building to which the student will be assigned pursuant to section 79-235.

Source:Laws 1989, LB 183, § 7; Laws 1990, LB 843, § 8; Laws 1991, LB 207, § 5; Laws 1992, LB 1001, § 37; Laws 1994, LB 930, § 2; R.S.1943, (1994), § 79-3407; Laws 1996, LB 900, § 42; Laws 1997, LB 346, § 2; Laws 2001, LB 797, § 7; Laws 2006, LB 1024, § 20; Laws 2009, LB62, § 3; Laws 2009, LB549, § 7.

79-239. Application; request for release; rejection; notice; appeal.

If an application is rejected by the option school district or if the resident school district rejects a request for release under subsection (1) of section 79-237, the rejecting school district shall provide written notification to the parent or guardian stating the reasons for the rejection and the process for appealing such rejection to the State Board of Education. Such notification shall be sent by certified mail. The parent or legal guardian may appeal a rejection to the State Board of Education by filing a written request, together with a copy of the rejection notice, with the State Board of Education. Such request and copy of the notice must be received by the board within thirty days after the date the notification of the rejection was received by the parent or legal guardian. Such hearing shall be held in accordance with the Administrative Procedure Act and shall determine whether the procedures of sections 79-234 to 79-241 have been followed.

Source:Laws 1989, LB 183, § 8; Laws 1992, LB 1001, § 38; Laws 1993, LB 348, § 67; R.S.1943, (1994), § 79-3408; Laws 1996, LB 900, § 43; Laws 2009, LB549, § 8.

79-240. Relocation; automatic acceptance; deadlines waived.

(1) The application of a student who relocates in a different school district but wants to continue attending his or her original resident school district and who has been enrolled in his or her original resident school district for the immediately preceding two years shall be automatically accepted, and the deadlines prescribed in section 79-237 shall be waived.

(2) The application of an option student who relocates in a different school district but wants to continue attending the option school district shall be automatically accepted, and the deadlines prescribed in section 79-237 shall be waived.

Source:Laws 1989, LB 183, § 9; Laws 1990, LB 843, § 9; Laws 1991, LB 207, § 6; Laws 1992, LB 1001, § 39; Laws 1993, LB 348, § 68; R.S.1943, (1994), § 79-3409; Laws 1996, LB 900, § 44; Laws 1996, LB 1050, § 9; Laws 2009, LB549, § 9.

79-241. Transportation; fee authorized; reimbursement; when.

(1) Except as provided in subsection (2) of this section, section 79-611 does not apply to the transportation of an option student. The parent or legal guardian of the option student shall be responsible for required transportation. A school district may, upon mutual agreement with the parent or legal guardian of an option student, provide transportation to the option student on the same basis as provided for resident students. The school district may charge the parents of each option student transported a fee sufficient to recover the additional costs of such transportation.

(2) Parents or guardians of option students who qualify for free lunches shall be eligible for transportation reimbursement as described in section 79-611, except that they shall be reimbursed at the rate of one hundred forty-two and one-half percent of the mandatorily

established mileage rate provided in section 81-1176 for each mile actually and necessarily traveled on each day of attendance by which the distance traveled one way from the residence of such student to the schoolhouse exceeds three miles. The State Department of Education shall reimburse the option school district for transportation expenses paid to the parents of qualifying option students or incurred in actual transportation of qualifying option students. If a parent or guardian of a qualifying option student has an agreement with the option school district for the provision of transportation, the department shall reimburse the option school district only if option students who are not eligible for transportation reimbursement are charged fees for transportation, and reimbursement shall be only for the actual miles traveled one way beyond the normal transportation route at the rate described in this subsection. Reimbursement shall be made on or before June 30 for expenses incurred during the current school year. If sufficient funds are not appropriated to fully fund the provisions of this section, the department shall make a proportionate reduction in each payment made pursuant to this section.

(3) For option students verified as having a disability as defined in section 79-1118.01, the transportation services set forth in section 79-1129 shall be provided by the resident school district. The department shall reimburse the resident school district for the cost of transportation in accordance with section 79-1144.

Source:Laws 1989, LB 183, § 10; Laws 1990, LB 843, § 10; Laws 1991, LB 207, § 7; Laws 1992, LB 1001, § 40; Laws 1993, LB 838, § 2; Laws 1993, LB 348, § 69; R.S.1943, (1994), § 79-3410; Laws 1996, LB 900, § 45; Laws 1997, LB 346, § 3; Laws 1998, Spec. Sess., LB 1, § 8.

79-242. Graduation credits; award of diploma.

An option school district shall accept credits toward graduation that were awarded by another school district. The option school district shall award a diploma to an option student if the student meets its graduation requirements.

Source:Laws 1989, LB 183, § 12; R.S.1943, (1994), § 79-3412; Laws 1996, LB 900, § 46.

79-243. School district; provide information.

A school district shall make information about the school district and its schools, programs, policies, and procedures available to all interested people.

Source:Laws 1989, LB 183, § 13; R.S.1943, (1994), § 79-3413; Laws 1996, LB 900, § 47.

79-244. Program; effect on contracting; child with a disability; restriction on transfer.

The enrollment option program does not preclude a school district from contracting with other school districts, educational service units, or other state-approved entities for the

provision of services. A child with a disability receiving services from another district pursuant to contract due to lack of appropriate programming in his or her resident school district is not eligible to transfer as an option student into the district currently providing services but is eligible to transfer as an option student into any other district which accepts option students and has an appropriate program.

Source:Laws 1989, LB 183, § 14; Laws 1990, LB 843, § 11; R.S.1943, (1994), § 79-3414; Laws 1996, LB 900, § 48; Laws 1997, LB 346, § 4.

79-245. Tax Equity and Educational Opportunities Support Act; applicability.

The Tax Equity and Educational Opportunities Support Act shall apply to the enrollment option program as provided in this section. For purposes of the act, (1) option students shall not be counted as formula students by the resident school district and shall be counted by the option school district and (2) the option school district shall include the funds received pursuant to this section in the calculation of other actual receipts as required by section 79-1018.01.

Source:Laws 1989, LB 183, § 15; Laws 1990, LB 843, § 12; Laws 1991, LB 511, § 69; Laws 1992, LB 245, § 74; R.S.1943, (1994), § 79-3415; Laws 1996, LB 900, § 49; Laws 1997, LB 346, § 5; Laws 1997, LB 347, § 5; Laws 1998, Spec. Sess., LB 1, § 9.

79-246. Special education programs; reimbursement to option school district.

The State Department of Education shall reimburse each option school district for special education programs provided to option students in accordance with section 79-1142.

The resident school district of an option student shall be exempted from the payment responsibility set forth in section 79-1140.

For purposes of calculation to determine reimbursement pursuant to section 79-1142, the option school district shall include the adjusted average per pupil cost as defined in section 79-1114 of the option school district and not the amount received pursuant to section 79-245.

Source:Laws 1989, LB 183, § 16; Laws 1990, LB 843, § 13; R.S.1943, (1994), § 79-3416; Laws 1996, LB 900, § 50.

OPEN ENROLLMENT

79-2110. Diversity plan; limitations; school building maximum capacity; attendance areas; school board; duties; application to attend school outside attendance area; procedure; continuing student; notice.

(1)(a) Each diversity plan shall provide for open enrollment in all school buildings in the learning community, subject to specific limitations necessary to bring about diverse enrollments in each school building in the learning community. Such limitations, for school buildings other than focus schools and programs other than focus programs, shall include giving preference at each school building first to siblings of students who will be enrolled as continuing students in such school building or program for the first school year for which enrollment is sought in such school building and then to students that contribute to the socioeconomic diversity of enrollment at each building and may include establishing zone limitations in which students may access several schools other than their home attendance area school. Notwithstanding the limitations necessary to bring about diversity, open enrollment shall include providing access to students who do not contribute to the socioeconomic diversity of a school building, if, subsequent to the open enrollment selection process that is subject to limitations necessary to bring about diverse enrollments, capacity remains in a school building. In such a case, students who have applied to attend such school building shall be selected to attend such school building on a random basis up to the remaining capacity of such building. A student who has otherwise been disqualified from the school building pursuant to the school district's code of conduct or related school discipline rules shall not be eligible for open enrollment pursuant to this section. Any student who attended a particular school building in the prior school year and who is seeking education in the grades offered in such school building shall be allowed to continue attending such school building as a continuing student.

(b) To facilitate the open enrollment provisions of this subsection, each school year each member school district in a learning community shall establish a maximum capacity for each school building under such district's control pursuant to procedures and criteria established by the learning community coordinating council. Each member school district shall also establish attendance areas for each school building under the district's control, except that the school board shall not establish attendance areas for focus schools or focus programs. The attendance areas shall be established such that all of the territory of the school district is within an attendance area for each grade. Students residing in a school district shall be allowed to attend a school building in such school district.

(c) For purposes of this section and sections 79-238 and 79-611, student who contributes to the socioeconomic diversity of enrollment means (i) a student who does not qualify for free or reduced-price lunches when, based upon the certification pursuant to section 79-2120, the school building the student will attend has more students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community or (ii) a student who qualifies for free or reduced-price lunches when, based upon the certification pursuant to section 79-2120, the school building the

student will attend has fewer students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community.

(2)(a) On or before March 15 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, a parent or guardian of a student residing in a member school district in a learning community may submit an application to any school district in the learning community on behalf of a student who is applying to attend a school building for the following school year that is not in an attendance area where the applicant resides or a focus school, focus program, or magnet school as such terms are defined in section 79-769. On or before April 1 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, the school district shall accept or reject such applications based on the capacity of the school building, the eligibility of the applicant for the school building or program, the number of such applicants that will be accepted for a given school building, and whether or not the applicant contributes to the socioeconomic diversity of the school or program to which he or she has applied and for which he or she is eligible. The school district shall notify such parent or guardian in writing of the acceptance or rejection.

(b) A parent or guardian may provide information on the application regarding the applicant's potential qualification for free or reduced-price lunches. Any such information provided shall be subject to verification and shall only be used for the purposes of this section. Nothing in this section requires a parent or guardian to provide such information. Determinations about an applicant's qualification for free or reduced-price lunches for purposes of this section shall be based on any verified information provided on the application. If no such information is provided the student shall be presumed not to qualify for free or reduced-price lunches for the purposes of this section.

(c) A student may not apply to attend a school building in the learning community for any grades that are offered by another school building for which the student had previously applied and been accepted pursuant to this section, absent a hardship exception as established by the individual school district. On or before September 1 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, each school district shall provide to the learning community coordinating council a complete and accurate report of all applications received, including the number of students who applied at each grade level at each building, the number of students accepted at each grade level at each building, the number of such students that contributed to the socioeconomic diversity that applied and were accepted, the number of applicants denied and the rationales for denial, and other such information as requested by the learning community coordinating council.

(3) Each diversity plan may also include establishment of one or more focus schools or focus programs and the involvement of every member school district in one or more pathways across member school districts. Enrollment in each focus school or focus program shall be designed to reflect the socioeconomic diversity of the learning community as a

whole. School district selection of students for focus schools or focus programs shall be on a random basis from two pools of applicants, those who qualify for free and reduced-price lunches and those who do not qualify for free and reduced-price lunches. The percentage of students selected for focus schools from the pool of applicants who qualify for free and reduced-price lunches shall be as nearly equal as possible to the percentage of the student body of the learning community who qualify for free and reduced-price lunches. The percentage of students selected for focus schools from the pool of applicants who do not qualify for free and reduced-price lunches shall be as nearly equal as possible to the percentage of the student body of the learning community who do not qualify for free and reduced-price lunches. If more capacity exists in a focus school or program than the number of applicants for such focus school or program that contribute to the socioeconomic diversity of the focus school or program, the school district shall randomly select applicants up to the number of applicants that will be accepted for such building. A student who will complete the grades offered at a focus program, focus school, or magnet school that is part of a pathway shall be allowed to attend the focus program, focus school, or magnet school offering the next grade level as part of the pathway as a continuing student. A student who completes the grades offered at a focus program, focus school, or magnet school shall be allowed to attend a school offering the next grade level in the school district responsible for the focus program, focus school, or magnet school as a continuing student. A student who attended a program or school in the school year immediately preceding the first school year for which the program or school will operate as a focus program or focus school approved by the learning community and meeting the requirements of section 79-769 and who has not completed the grades offered at the focus program or focus school shall be a continuing student in the program or school.

(4) On or before February 15 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, a parent or guardian of a student who is currently attending a school building or program, except a magnet school, focus school, or focus program, outside of the attendance area where the student resides and who will complete the grades offered at such school building prior to the following school year shall provide notice, on a form provided by the school district, to the school board of the school district containing such school building if such student will attend another school building within such district as a continuing student and which school building such student would prefer to attend. On or before March 1, such school board shall provide a notice to such parent or guardian stating which school building or buildings the student shall be allowed to attend in such school district as a continuing student for the following school year. If the student resides within the school district, the notice shall include the school building offering the grade the student will be entering for the following school year in the attendance area where the student resides. This subsection shall not apply to focus schools or programs.

(5) A parent or guardian of a student who moves to a new residence in the learning community after April 1 may apply directly to a school board within the learning community within ninety days after moving for the student to attend a school building outside of the attendance area where the student resides. Such school board shall accept or

reject such application within fifteen days after receiving the application, based on the number of applications and qualifications pursuant to subsection (2) or (3) of this section for all other students.

(6) A parent or guardian of a student who wishes to change school buildings for emergency or hardship reasons may apply directly to a school board within the learning community at any time for the student to attend a school building outside of the attendance area where the student resides. Such application shall state the emergency or hardship and shall be kept confidential by the school board. Such school board shall accept or reject such application within fifteen days after receiving the application. Applications shall only be accepted if an emergency or hardship was presented which justifies an exemption from the procedures in subsection (4) of this section based on the judgment of such school board, and such acceptance shall not exceed the number of applications that will be accepted for the school year pursuant to subsection (2) or (3) of this section for such building.

Source:Laws 2006, LB 1024, § 16; Laws 2007, LB641, § 42; Laws 2008, LB1154, § 21; Laws 2009, LB62, § 6; Laws 2010, LB1070, § 14.
Effective Date: April 6, 2010

VISA INFORMATION

Description of selected visa classifications:

B-1: Temporary visitor for business.

B-2: Temporary visitor for pleasure (a tourist).

F-1: Student.

F-2: Spouse or unmarried child of an F-1 student.

J-1: Exchange visitor (“foreign exchange student”).

J-2: Spouse or unmarried child of a J-1 exchange visitor.

M-1: Vocational student or other nonacademic student.

M-2: Spouse or unmarried child of an M-2 vocational or other nonacademic student.

General Information about Student Visas

Note: The following general information and links to U.S. Government websites are provided as a starting point for school district officials and other individuals to obtain more detailed information regarding foreign student visas issued by the U. S. Government. This material is not intended as legal advice for school districts or for foreign students with visas or for their families. Provisions regarding student visas may be subject to change by the U. S. Government at any time, and the Nebraska Department of education does not provide legal advice to school districts or to individuals regarding visa issues. School districts should consult with their own legal counsels if they have questions regarding foreign exchange students or students with other types of visas.

Among the more common student visas that school districts may encounter are J and F visas. A discussion of those visas is provided at the following U. S. State Department website:

http://travel.state.gov/visa/temp/types/types_1270.html.

The following U. S. State Department web site currently also provides a chart listing, and providing links to, numerous types of visas:

http://travel.state.gov/visa/temp/types/types_1286.html.

Secondary school visitor exchange student J-1 visas are discussed at:

<http://exchanges.state.gov/jexchanges/programs/hsstudent.html>.

The federal regulations for the Secondary School Student Exchange programs are located at Title 22, Code of Federal Regulations, Part 62, which can be accessed at the website listed above.

The U. S. Department of State also has the following information about the Student and Exchange Visitor Information System (SEVIS) at:

<http://exchanges.state.gov/jexchanges/sevis.html>.

The SEVIS website is located at:

<http://www.ice.gov/sevis/index.htm>.